

HOUSE BILL NO. 153

INTRODUCED BY NOENNIG

BY REQUEST OF THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE PUBLIC SERVICE COMMISSION'S EXISTING AUTHORITY TO REVIEW AND APPROVE MATERIAL AFFILIATE TRANSACTIONS OF REGULATED ENERGY UTILITIES; DEFINING CERTAIN TERMS; REQUIRING THAT A REGULATED ENERGY UTILITY MAY NOT ENTER INTO A MATERIAL AFFILIATE TRANSACTION WITHOUT THE COMMISSION'S REVIEW AND APPROVAL; PROVIDING AN EXEMPTION; PROVIDING THE PUBLIC SERVICE COMMISSION WITH RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in [sections 1 ~~and 2~~ THROUGH 3], unless the context requires otherwise, the following definitions apply:

(1) "Affiliate" means an entity closely connected or associated with a regulated energy utility.

(2) "Affiliate transaction" means ~~any~~ A FINANCIAL transaction between the utility operations of a regulated energy utility and an affiliate.

(3) "Material affiliate transaction" means an affiliate transaction that has a significant potential impact on the financial stability of a regulated energy utility, including but not limited to:

(a) dividend payments from a regulated energy utility to a corporate parent company if those payments would place the regulated energy utility's credit quality or property in jeopardy;

(b) intercompany loans or other extensions of credit or advances of working capital between a regulated energy utility and an affiliate if those activities would place the regulated energy utility's credit quality or property in jeopardy;

(c) the use of proceeds in issuing securities for which the assets of the regulated energy utility are pledged; or

(d) external borrowing by a regulated energy utility with a term greater than 120 days if the loan would place the regulated energy utility's credit quality or property in jeopardy.

(4) "Regulated energy utility" means a public utility with more than 100 customers that owns distribution

1 facilities for the distribution of electricity or natural gas to the public and that is regulated by the commission
2 pursuant to this title.

3
4 **NEW SECTION. Section 2. Commission approval of material affiliate transactions -- rulemaking**
5 **authority.** (1) In addition to the commission's existing regulatory authority under this title and except as provided
6 in [SECTION 3] AND subsection (4) OF THIS SECTION, a regulated energy utility may not enter into a material affiliate
7 transaction without the commission's review and approval.

8 (2) The commission shall approve or deny the material affiliate transaction. Upon a showing of good
9 cause, the commission shall hold a public hearing on the proposed material affiliate transaction within 45 days
10 of an official notification by the regulated energy utility to the commission that the utility is intending to enter into
11 a material affiliate transaction.

12 (3) If a material affiliate transaction involves dividend payments from a regulated energy utility to a
13 corporate parent company, the commission may limit those dividend payments if the payments would place the
14 regulated energy utility's credit quality or property in jeopardy.

15 (4) A regulated energy utility may request an exemption from any of the provisions in this section, and
16 the commission may grant the exemption on a case-by-case basis upon a showing of good cause and after
17 notice and an opportunity for hearing.

18 (5) The commission may promulgate rules that implement the provisions of [sections 1 and 2 THROUGH
19 3].

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21 **NEW SECTION. Section 3. EXEMPTION. A REGULATED ENERGY UTILITY THAT HAS ENTERED INTO A**
22 **STIPULATION AGREEMENT WITH THE COMMISSION REGARDING THE SEPARATION OF ITS NONREGULATED UTILITY BUSINESS**
23 **IS EXEMPT FROM THE PROVISIONS OF [SECTIONS 1 THROUGH 3] AS LONG AS THE STIPULATION AGREEMENT REMAINS**
24 **EFFECTIVE UNDER A FEDERAL BANKRUPTCY COURT ORDER.**

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26 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 and 2 THROUGH 3] are intended to
27 be codified as an integral part of Title 69, and the provisions of Title 69 apply to [sections 1 and 2 THROUGH 3].

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29 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

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